

MT LEGISLATIVE HISTORY

Chapter 335 191971

Bill H 316 S _____

Original bill & hist. X C

H. Committee on Env. Resources

S. Committee on Natural Resources

Hearing Date(s) _____ C

Hearing Date(s) _____ C

1/26 ✓ C

2/18/71 ✓ C

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_____ C

_____ C

_____ C

Date Out 2/6 ✓ C

2/22 ✓ C

Did this bill originate in an interim committee? ____ Yes X No

Committee _____

Report _____

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any difference how much they paid for return of the bottles, the bottles just were not returned.

Mr. Don Harrington, Harrington Pepsi-Cola, Butte, stated that education of the people is required and strict enforcement of the anti-litter laws. He stated that soft drink containers constituted 4% of the roadside litter in some of the studies of roadside litter which had been made. He said his company will make 30 trips with non-returnable bottles compared with 4 trips on returnable bottles. He said the American people didn't want returnable bottles. He said over half of the waste is made by the paper industry. He said education of the public is necessary to reduce littering.

Mr. Al Dougherty, representing the Montana Beer Wholesaler's Association, said he appeared in opposition to H.B. 124. He agreed with a former speaker that the public must be educated. He said he represented 59 clients and they are anxious to continue in the beer business. He said hundreds of their clients demanded only cans. He said it cost 8¢ a bottle to handle beer in the state of Montana.

Mr. Gaylord Nelson, opposed the bill and said that national legislation should be adopted. He said if left to the states, there would be 50 different methods of litter control.

Mr. John Risken, attorney for the U.S. Brewers Association, opposed the bill and said they had supported H.B. 112. He explained the difference between the beer industry in Canada and the United States. With 5 breweries in Canada and 45 plants they could set their prices. He said the federal government had appropriated \$4,000,000 dollars to solve the resource recovery problem. He mentioned that the steel workers opposed the returnable container legislation. He said no other law penalizes industry as this bill would.

Mr. Ray Fischer, Montana Chamber of Commerce, stated they supported anti-litter legislation but could not support this bill. He urged that H.B. 124 do not pass the committee.

Rep. Marbut stated the anti-litter law in Canada was working. He said Canada had far less litter along the highways than we do.

Mr. Dougherty said that 3% of the litter found along the roads is beer bottles and yet the beer industry would be singled out for this discriminatory tax. In the discussion that followed the constitutionality of the bill was questioned, the question of interstate commerce regulations discussed, the cost of the anti-litter bill to the economy of the state emphasized and other ideas. The witnesses were excused.

Rep. Darrow, Dist. 9, discussed H.B. 316 as its author and named it the land owner modification act. He said this bill would require anyone planning to disrupt the surface of the land to notify the owner before he proceeded. He explained the different sections of the bill and also amendments that he proposed.

Mr. Robert Morgan, Helena National Forest, stated this would be a good management tool if H.B. 316 were passed. His statement appears

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as exhibit 1 for H.B. 316 and appears as part of the record.

Mr. Ted Schwinden, state land commissioner, supported the bill and said the proposed amendment would remove what they had questioned. He said he believed it would be good legislation from a land manager's point of view.

Mr. Don Aldrich, representing the Montana Wildlife Federation, said H.B. 316 was legislation they had been requesting for a long time. He said it would give the land manager some control over the development of the land.

Mr. Mons Tiegen, representing the Montana Livestock Growers Association, stated that they could support this legislation. He said he believed the mining industry realized their responsibility more than they had a few years ago and he believed it would be good legislation.

Mr. George Reeves, Arizona attorney, stated that there were practical problems that were involved in the bill, one being that it is not a simple thing to determine ownership of land. He stated the present law would be in conflict with this bill. He mentioned the Black vs a mining Co. case and stated he thought the bill was too broad and wondered if the present statutes should not be amended to accomplish what H.B. 316 attempted to accomplish.

Mr. Bill Mute, Vanguard Exploration, Spokane, opposed the bill. His statement appears as exhibit 2 for H.B. 316 and is considered as part of the record.

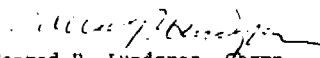
Mr. Rogers of Rogers Mining Co., opposed the bill and agreed with the former speaker.

Mr. Roy Sieffert, representing mining interests in Montana, agreed that amendments to present legislation to accomplish the purpose desired could be made. He said if the mining industry was more restricted in their operations the federal government will look more unfavorable on them than they had in the past.

Mr. George Reeves, representing the Homestake Mining Co., recommended amending present legislation governing mining.

Considerable discussion followed on the proposed bill and the meeting was adjourned at 11:45 a.m.

Respectfully submitted,


Conrad F. Lundgren, Chrmn.

hmv

1-26-71 117
Robert
Morgan
Ex. 1
H.O. 31A

USDA FOREST SERVICE STATEMENT ON HQ-316

The United States Forest Service administers ten National Forests in Montana comprising some 16,000,000 acres. Most of this land is open to mineral entry under the General Mining Laws. Extraction of minerals is a valid and important use of National Forest land; it therefore follows that prospecting to locate these minerals is a necessary and accepted practice on these lands.

Administration of the National Forests is also guided by other laws which specifically require that due consideration be given the relative values of all resources. Thus, Forest Service policy is to encourage prospecting and mining, but to the extent feasible to coordinate prospecting and mining with the protection needs of other resources, other activities, and other forest values. This means avoiding, to the extent possible, unnecessary damage ^{encroachment} or unnecessary on other resource uses or value.

In order to accomplish this coordination, the Agency must be aware of contemplated prospecting activity. HQ-316 provides for notification of work contemplated and therefore helps pave the way for proper coordination. The Forest Service recognizes that the provisions of HQ-316 are intended to facilitate this coordination and protection of other resource values, not to control or attempt control of mining activities on National Forest lands.

The Forest Service favors enactment of HQ-316.

Submitted to the House Committee on Environment and Resources on January 26, 1970, by Robert S. Morgan, USDA Forest Service, Helena National Forest - Region One.

USDA FOREST SERVICE STATEMENT ON H3-316

The United States Forest Service administers ten National Forests in Montana comprising some 16,000,000 acres. Most of this land is open to mineral entry under the General Mining Laws. Extraction of minerals is a valid and important use of National Forest land; it therefore follows that prospecting to locate these minerals is a necessary and accepted practice on these lands.

Administration of the National Forests is also guided by other laws which specifically require that due consideration be given the relative values of all resources. Thus, Forest Service policy is to encourage prospecting and mining, but to the extent feasible to coordinate prospecting and mining with the protection needs of other resources, other activities, and other forest values. This means avoiding, to the extent possible, unnecessary damage ^{encroachment} or unnecessary/on other resource uses or value.

In order to accomplish this coordination, the Agency must be aware of contemplated prospecting activity. H3-316 provides for notification of work contemplated and therefore helps pave the way for proper coordination. The Forest Service recognizes that the provisions of H3-316 are intended to facilitate this coordination and protection of other resource values, not to control or attempt control of mining activities on National Forest lands.

The Forest Service favors enactment of H3-316.

Submitted to the House Committee on Environment and Resources on January 26, 1970, by Robert S. Morgan, USDA Forest Service, Helena National Forest - Region One.

1/26/05

Whom do you represent? Vanguard Telephone Co.

Amend?..... Oppose?..... Support?.....

Please leave prepared statement with secretary.

The establishing of a
a telephone system would
after it is possible. There should
be a policy, perhaps under the
control of the board of
directors. Responsibility for
accuracy, however, should
be the owner's.

S.B. 70

February 6, 1971 -- 2

of H.B. 243 and S.B. 70 would cover the problem as they would cover exploratory as well as themining activities. Rep. Darrow stated the purposes of H.B. 479 could be affected in S.L. 70 then made the substitute motion again that it be amended and do pass, seconded by Rep. Johnston and the motion failed.

The vote then reverted to the original substitute motion that it do not pass, and that motion carried.

Rep. Darrow offered to assist on the sub-committee on S.B. 70 as did Rep. Anderson and Rep. Quilici.

Rep. Darrow reported as chairman of the sub-committee on H.B. 33. He stated the bill had been amended to allow suits to be brought against the state agencies if they were not enforcing the pollution laws.

Rep. Scott expressed his appreciation to members of the sub-committee on H.B. 33 for all of their hard work and requested the committee pass the bill and get it on the second reading and he would propose amendments to it to coincide with the new federal regulations which, he said, Montana would be forced to adopt within 18 months. Rep. McNamer said he would resist the motion that it do pass as amended. Further discussion brought forth that it was the Muskie bill and not federal regulations which had been adopted.

Rep. McNamer offered an amendment to the bill on line 22, page 2, to strike the word "any" and strike all of line 23 and 24 in their entirety. Rep. McKittrick stated he opposed the motion as those lines would allow a company or corporation to show that they were carrying out the regulations. After further discussion by Rep. Darrow, Rep. McNamer withdrew his motion. Explanation of the legal details of the bill were given by Rep. Scott.

Rep. McKittrick moved that H.B. 33 do pass as amended, seconded by Rep. Scott but the motion failed 6 to 5.

Rep. Anderson moved that H.B. 33 do not pass, seconded by Rep. Quilici and the motion carried 6 to 5.

Rep. Darrow moved that H.B. 507 do not pass, seconded by Rep. Kolstad and the motion carried.

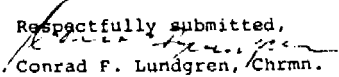
Rep. Johnston moved that H.B. 316 do pass. Rep. Darrow proposed amendments to the bill. Rep. Scott made a substitute motion that H.B. 316 do not pass, seconded by Rep. Lanthorn. A great deal of discussion followed. The substitute motion that it do not pass failed.

Vote was taken on the original motion that it do pass as amended and the motion carried.

The meeting was adjourned at 12:15 noon.

hnmw

Respectfully submitted,


Conrad F. Lundgren, Chrmn.

☐ DO PASS

STANDING COMMITTEE REPORT

February 6, 1971

- ☒ DO PASS AS AMENDED
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

MR. PRESIDENT SPEAKERS:

We, your committee on ENVIRONMENT AND RESOURCES

having had under consideration HOUSE Bill No. 310

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PROSPECTORS, MINERS, OR OTHER PERSONS IN THIS STATE TO ADVISE THE OWNER OF THE LAND SURFACE IN ADVANCE OF ANY OPERATIONS WHICH WILL DISTURB THE SURFACE OF SUCH LAND AND OBTAIN AUTHORIZATION TO OPERATE THEREON."

Respectfully report as follows: That HOUSE Bill No. 310

be amended on page 1, section 3, lines 19 and 20, after the material "section 4," on line 19 and before the word "land" on line 20 by striking the following material ~~unless otherwise provided by the terms of a lease or prospecting permit in full force and effect,~~ the and inserting in lieu thereof the word "the", and

be further amended on page 2, after line 15, by inserting the following new material: section 5. The provisions of this act shall not apply where operations upon land are performed in accordance with the terms of a lease or prospecting permit in full force and effect., and

be further amended on page 2, by renumbering Section 6 to read Section 7 on line 11, and

DO PASS

DO NOT PASS

DO PASS

House Committee Report form

Chairman

Committee Report form
Revised 1968

FORM 19

Chairman

Chairman

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SENATE COMMITTEE

on

NATURAL RESOURCES

The tenth meeting of the Natural Resources Committee was called to order by Chairman Bertsche at 12:00 noon, Thursday, February 18th, in Room 442. Roll was called and a quorum declared present.

Rep. George Darrow presented HB 316 and explained intent and purpose of the bill. He presented amendments to the bill as shown on the attached amendment form.

Ted Schwinden of the State Land Board spoke in favor of the bill. The board does not have enough people available to keep check of all state lands so this bill would give them an additional check on operations on state tracts.

Mons Teigen of the Montana Stockgrowers Association also spoke in favor of the bill.

Don Aldrich, Montana Wildlife Federation presented prepared statement in favor of the bill, which statement is attached.

Ray Olson, Anaconda Company, spoke in opposition. Stated there are already enough trespass statutes on the books and this legislation is unnecessary and impractical.

Robert Holding, Montana Forest Practices Industry appeared in opposition stating this act not necessary. However, if the bill is to be passed he suggested an amendment, whereby the language "or other valid contract" would be inserted on line 24, Section 5, page 2, as shown on the attached amendments.

Senator Groff also appeared and asked that lines 11 and 12 on page 2 be amended by omitting the words "federally owned" and that Section 4 be omitted entirely from the bill.

Frank Griffin, Southwestern Mining Association appeared in opposition, stating duplication of federal regulations and that the bill would work a hardship on the small miners.

George Darrow then stated in reply that this bill is important protection to the private landowner of his property rights. As to Senator Groff's proposed amendments he stated that this would take all the "teeth" out of the bill since so much of the problems occur on federally owned lands. He said he would accept Mr. Holding's amendment along with those he had proposed.

George Darrow then presented HB 66, and explained intent and purpose. Other proponents were Winton Wedemeyer, Montana Conservation Council, which group proposed the act; Dorothy Eck of League of Women Voters, Don Aldrich of Montana Wildlife Federation, Mons Teigen of Montana Stockgrowers Assn., Jim Posowitz of State Fish and Game Commission and Frank Griffin of Southwestern Miners Association. There were no opponents.

Rep. Darrow offered an amendment on Line 7, page 6, Section 8(a) asking that the words "or his designated representative" be inserted following the word "governor" and also that Line 22, beginning with the word "Council" be amended by striking all of the language through and including the word and punctuation "meetings." on line 24, and inserting in lieu thereof the following words, figures and punctuation from Sec. 82A-110 of SB 274 "Each member of the council shall, unless he is a full-time salaried officer or employee of this state, be paid twenty-five dollars (\$25) for each day he is actually and necessarily engaged in the performance of council duties, and shall also be reimbursed for actual and necessary expenses incurred while in the performance of council duties. Members who are full-time salaried officers or employees of this state may not be compensated for their service as members, but shall be reimbursed for their expenses."

This completed testimony and the committee went into executive session.

It was moved by Senator Mitchell, seconded by Senator Cochrane that the amendment on Line 7, page 6 be adopted. Motion carried. It was then moved by Senator Cochrane, seconded by Senator Mitchell that the proposed amendments on lines 22 through 24 on page 7 be adopted. This motion carried.

It was moved by Senator Hanks, seconded by Senator Mitchell that HB 66 BE CONCURRED IN AS AMENDED. The motion carried.

It was decided to pass consideration on HB 316 until the secretary could prepare the proposed amendments for the committee members to study. More discussion will be had on the bill at the next meeting, Saturday, February 20, at 8:00 A.M., at the Highway Commission Auditorium.

The meeting was then adjourned.


Chairman

Doris Cox, Secretary

SENATE NATURAL RESOURCES COMMITTEE
HOUSE BILL 316
February 18, 1971
Statement of Don Aldrich, Executive Secretary
Montana Wildlife Federation

If enacted, House Bill 316 will provide some consideration of the lands renewable surface values by those who prospect for minerals.

The private landowner and the agency responsible for managing public land will have knowledge of exploration and road development and will also know what measure will be taken to protect and restore the land and waters.

Section 4 exempts the small operator who uses only hand tools.

This legislation will open the door for cooperation between the landowner and the prospector. Land resources are sure to benefit from this relationship.

The Montana Wildlife Federation asks your favorable consideration of this legislation.

SENATE COMMITTEE
on
NATURAL RESOURCES

The twelfth meeting of the Senate Committee on Natural Resources was called to order by Chairman Wm. H. Bertsche at 11:00 A.M., Monday, February 22, in Room 442. Roll was called and a quorum declared present.

The proposed amendments to HB 316 were read and explained to the committee. Senator Mitchell moved acceptance of the amendments, seconded by Senator Cochran. Motion carried. Senator Cochran then moved, seconded by Senator Mitchell that HB 316 BE CONCURRED IN AS AMENDED. Motion carried.

Rep. Harrison Fagg then presented a series of amendments to HB 243. The committee discussed the bill at length and talked over the proposed amendments. A further amendment was suggested by Senator Mitchell, to amend Section 3, subsection (7), line 18, by adding after the word "exploration" the words and punctuation ", except as noted in Section 20 and Section 24 herein."

Senator Cochran moved adopted of the amendments, seconded by Senator Flynn. Motion carried.

Senator Cochran moved, seconded by Senator Mitchell that HB 243 BE CONCURRED IN AS AMENDED. The motion carried.

The chairman advised the committee that HJR #10, previously passed by the committee had been referred to the Rules Committee for decision as to whether the intent could be carried out by resolution. He asked whether the committee would give another DO PASS if the Rules Committee gives a favorable decision. It was moved, seconded and carried that if the resolution is approved by the Rules Committee that it DO PASS.

On motion the meeting adjourned.


Chairman

Doris Cox, Secretary

- [] DO PASS
- [] DO NOT PASS
- ☒ BE CONCURRED IN AS AMENDED
- [] BE NOT CONCURRED IN
- [] BE ADOPTED
- [] BE NOT ADOPTED

STANDING COMMITTEE REPORT

February 22, 1971

MR. PRESIDENT

We, your committee on NATURAL RESOURCES having had under consideration HOUSE BILL No. 316

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PROSPECTORS, MINERS, OR OTHER PERSONS IN THIS STATE TO ADVISE THE OWNER OF THE LAND SURFACE IN ADVANCE OF ANY OPERATIONS WHICH WILL DISTURB THE SURFACE OF SUCH LAND AND OBTAIN AUTHORIZATION TO OPERATE THEREON."

Respectfully report as follows: That HOUSE BILL No. 316 be amended as follows:

Amend Section 2, page 1, line 17 of the House Committee of the Whole Approved bill, following the word "disturbance" by inserting the words "by mechanical equipment other than hand tools";

And further amend Section 2, page 1, line 20 following the word "any" by inserting the word "such";

And further amend Section 5, page 2, line 23, after the word "a" by omitting the words "lease or";

And further amend Section 5, page 2, line 23 after the word "permit" by inserting the words "or a lease covering any mineral interest in said land or other valid agreements authorizing such operations which are";

And further amend Section 5, page 2, line 24 by omitting the "." after the word "effect" and adding the following words, figures and punctuation ", or by the owner of one hundred percent (100%) of the rights to any mineral interest upon the land in which such mineral ownership is vested."

AND AS AMENDED BE CONCURRED IN

CHAPTER NO. 335

An Act Requiring Prospectors, Miners, or Other Persons in this State to Advise the Owner of the Land Surface in Advance of any Operations Which Will Disturb the Surface of Such Land and Obtain Authorization to Operate Thereon.

Be it enacted by the Legislative Assembly of the State of Montana:

"The landowner notification act."

Section 1. This act may be referred to as "The Landowner Notification Act".

Prospectors shall ascertain surface rights.

Section 2. All prospectors for minerals, miners, or other persons contemplating surface disturbance by mechanical equipment other than hand tools on lands within the state of Montana are required to ascertain the ownership and possessory right of any land before performing any such operations causing surface disturbance, such as road or trail building or any other work disturbing the surface on such land.

Notice to owner or manager prior to disturbance of surface.

Section 3. The land or surface of land not owned in fee by such person may not be disturbed in any manner until the owner or manager of the surface of said land, and the owner of a possessory right to said land, is given notice in writing, accompanied by a map showing the specific locations involved, of such person's intent or desire to enter upon such land which will sufficiently disclose the plan of work and operations, including contemplated measures for the protection and restoration of the land and waters, to enable the owner or manager of the land and any person holding a possessory right to such land to evaluate the extent of disturbance contemplated and the effectiveness and sufficiency of the protection and restoration measures planned.

Prior approval by owner of private land.

(a) Before commencement of any work or operations on any such lands, such person must first obtain from the surface owner of private land specific written approval of the proposed work or operations.

Authorization or permit by governmental agency.

(b) In the case of city, county, state, or federally owned lands, such person must first obtain the authorization or permit, if any, required by the applicable law and the regulations of the governmental agency or board charged by law with the administration or management of the surface of such land.

Section 4. Discovery pits which may be required to locate a mining claim on federal lands open to mineral entry, when excavated entirely by hand methods with hand tools, are exempt from the operation of this act.

Exemption—discovery pit excavation by hand methods.

Section 5. The provisions of this act shall not apply where operations upon land are performed in accordance with the terms of a prospecting permit or a lease covering any mineral interest in said land or other valid agreements authorizing such operations which are in full force and effect, or by the owner of one hundred percent (100%) of the rights to any mineral interest upon the land in which such mineral ownership is vested.

Exclusions.

Section 6. Any work done in violation of this act is punishable as a misdemeanor and each day of violation shall constitute a separate offense. The owner or lessor shall not be liable for injury to any person on either owned or leased land.

Penalties for violation.

Limitation on liability.

Approved March 15, 1971.

CHAPTER NO. 336

An Act Amending Section 69-4118, R.C.M. 1947, by Including Jails Among the Buildings and Facilities Subject to Sanitary Inspections by the State Department of Health.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 69-4118, R.C.M. 1947, is amended to read as follows:

Amending clause.

"69-4118. **Sanitary inspections of schoolhouses, churches, jails and other facilities for assemblages of persons.** (1) The department shall make sanitary inspections of schoolhouses, churches, theaters, *jails* and other buildings or facilities where persons assemble. If the facility is found unsanitary, the department shall direct that conditions be corrected within a reasonable time. If the unsanitary conditions are not corrected within the time specified, the building or facility is a public nuisance.

Duty of state department of health—sanitary inspections.

(2) Either the state board or a local board of health shall bring an action to correct the unsanitary conditions in the way provided by law for abating a public nuisance."

Actions.

Approved March 15, 1971.